



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

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**DECISION OF THE BOARD**

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Mailed and Filed: JUNE 17, 2022

IN THE MATTER OF:

Appeal Board No. 621504

PRESENT: RANDALL T. DOUGLAS, MEMBER

The Department of Labor issued the initial determinations holding the claimant ineligible to receive benefits, effective July 5, 2021 through July 11, 2021, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification; and holding the claimant ineligible to receive benefits, effective July 12, 2021 through November 7, 2021, on the basis that the claimant did not comply with registration requirements. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There was an appearance by the claimant. By decision filed February 16, 2022 (), the Administrative Law Judge sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board. The Board considered the arguments contained in the written statement submitted by the claimant.

Based on the record and testimony in this case, the Board makes the following

**FINDINGS OF FACT:** The claimant separated from employment on June 30, 2021, when he was laid off. He filed a claim for benefits on July 5, 2021. The claimant received a notice from the Department of Labor in

August 2021 stating that a claim had been filed using the claimant's identity. He also received a notice saying he had received an overpayment of close to

\$17,000.00.

The claimant did not certify for benefits for the week ending July 11, 2021. At the time, the claimant was experiencing problems with his electronic devices, particularly with respect to the privacy and security of his internet access. He did not trust that he could use these devices to access his online unemployment account securely. He did not certify for certain weeks because he was trying to get his devices fixed.

When the claimant tried logging in to his online unemployment account in July, he saw that there were no weeks available to claim. In September, the claimant's mother tried to help him certify, and they again found that there were no weeks available. A notation next to the summary of his claim stated that the Department of Labor was "working on it."

The claimant and his mother tried to call the Department of Labor using his mother's phone. They called seven times on September 21, 2021, twice on September 22, once on September 24, once on September 30, once on October 8, and once on November 3. On November 9, the claimant's mother, who was also his attorney-in-fact, called the claimant's State Senator's office. A person from the Department of Labor called the claimant on November 18. This person told the claimant that he would make the claimant's past weeks available to the claimant. He did not follow up with the claimant after that. Starting in mid-November, weeks of benefits became available for the claimant to claim. The claimant still was unable to claim past weeks.

In an email dated December 6, 2021, the Department of Labor sent the claimant a form letter that said, "Thank you for your patience. We have determined that your unemployment insurance (UI) claim can now be paid...."

OPINION: The credible evidence establishes that the claimant did not certify for benefits for the week ending July 11, 2021. Although the claimant testified that he was experiencing problems with the security of his internet access using his personal electronic devices, the claimant has not shown that he could not certify for benefits by other means. Accordingly, we conclude that the claimant's failure to certify for benefits for the week ending July 11, 2021 is not excused, and the claimant is ineligible for benefits with respect to that week.

The credible evidence further establishes that the claimant continued to

refrain from certifying for benefits after the week ending July 11, 2021 because he continued to be concerned about the security of his electronic devices. Starting September 21, 2021, however, the claimant made numerous calls to the Department of Labor using his mother's phone. The information the claimant had received from the Department, by mail and by accessing his online account, indicated that there were problems with the claimant's account, and the claimant was now taking steps toward certifying in the face of those problems. The claimant's inability to reach a live operator, despite numerous attempts, was beyond his control. Therefore, we conclude that the claimant was eligible for benefits effective September 21, 2021. Accordingly, we conclude that the claimant is ineligible for benefits on the basis of failure to comply with registration requirements from July 12 through September 20, 2021, only.

DECISION: The decision of the Administrative Law Judge is modified as follows and, as so modified, is affirmed.

The initial determination, holding the claimant ineligible to receive benefits, effective July 5, 2021 through July 11, 2021, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification, is sustained.

The initial determination, holding the claimant ineligible to receive benefits, effective July 12, 2021 through November 7, 2021, on the basis that the claimant did not comply with registration requirements, is modified to be effective July 12, 2021 through September 20, 2021, and, as so modified, is sustained.

RANDALL T. DOUGLAS, MEMBER